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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GLENN DARRELL BATALDEN, KEITH EVANS BRIGHT,
and MARK EARL PLUNKETT

Appeal 2008-2289
Application 10/020,026
Technology Center 2100

Decided:¹ March 30, 2009

Before JAMES D. THOMAS, JAY P. LUCAS,
and CAROLYN D. THOMAS, *Administrative Patent Judges*.
THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 CFR § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Data (electronic delivery).

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1 through 4, 7, 9 through 15, 17, 20 through 26, 28, and 30 through 36. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm

Invention

A controlling browser window is configured to control aspects of a controlled browser window. Event handlers within the software implementing the controlling browser window produce a predetermined result in response to events occurring with respect to user actions in the controlled browser window. These event handlers may override a predetermined response to cause a response different from the predetermined response. (Claim 1, Abstract 23).

Representative Claim

1. A method for controlling a viewable browser window, comprising:

opening a controlling browser window configured to control aspects of controlled browser window, wherein the controlling browser window establishes at least one event handler prior to opening the controlled browser window; and

opening the controlled browser window, wherein the controlled browser window includes a display area for rendering viewable content received from network locations, and wherein the controlling browser window controls at least one functional aspect of the controlled browser window during a browsing session engaged in by a user;

receiving user input to which the controlled browser window is configured to produce a predetermined response; and

overriding the predetermined response by executing an action specified by the at least one event handler to cause a response different from the predetermined response.

Prior Art and Examiner's Rejections

The Examiner relies upon the following references as evidence of unpatentability:

Hodgkinson	US 2002/0016802	Feb. 7, 2002 (Filing date Aug. 1, 2001)
Yen	US 2002/0054141 A1	May 9, 2002 (Filing date Jul. 20, 2001)

Netscape® Communicator 4.75, copyright 2000 (Select screenshots 1-5).

All claims on appeal, claims 1 through 4, 7, 9 through 15, 17, 20 through 26, 28, and 30 through 36 stand rejected under 35 U.S.C. § 103. As evidence of obviousness as to claims 1, 2, 4, 7, 12 through 15, 20, 25, 26, 28, 32 through 34, and 36, the Examiner relies upon Yen in view of Hodgkinson. In a second stated rejection, the Examiner relies upon this combination of references, further in view of Netscape, as to claims 3, 9 through 11, 17, 21 through 24, 30, 31, and 35.²

Claim Groupings

Based upon Appellants' arguments at page 14 of the Brief, claim 1 is considered to be representative of independent claims 1, 14, 25, and 34. We will likewise consider claim 1 representative. Separate arguments are

² At pages 2-3 of the Answer, the Examiner has withdrawn a rejection under the first paragraph of 35 U.S.C. § 112 of certain claims.

presented beginning at page 17 of the principal Brief as to claim 3, which is considered representative of all claims within the second stated rejection.

ISSUES

1. Have Appellants shown that the Examiner erred in finding that the feature of representative independent claim 1 on appeal of receiving user input to which a controlled browser window is configured to produce a predetermined response is taught among Yeh and Hodgkinson?

2. Have Appellants shown that the Examiner erred in finding that this combination of references teaches the feature of representative independent claim 1 of overriding the predetermined response by executing an action specified by at least one event handler to cause a response different from the predetermined response?

3. Have Appellants shown that the Examiner erred in finding that the applied prior art to Yen, Hodgkinson, and Netscape collectively teach the feature of dependent claim 3 of the controlling browser window further controlling a graphical aspect of a controlled browser including at least one chrome element displayed by a graphical user interface displayed by the opened controlled browser window?

FINDINGS OF FACT

1. Specification pages 1 and 2 in paragraphs [0003-0005] and figure 1 teach and illustrate prior art features with respect to browsers and browser windows. Well known browsers are noted in paragraph [0003] to include features relating to graphical aspects or imaging. In paragraph [0004] various illustrated features of prior art figure 1 including a title bar 102, a menu bar 104, a navigation tool bar 106, an address field 108, a personal

tool bar 110 and a viewing area 112 were known in the art to be customizable by users such as to permit them to generally add or remove various buttons from the navigation bar 106, for example. Significantly, paragraph [0005] teaches that users were capable of configuring the browser's operations themselves such as to permit, for example, a user to elect to disable or enable a browser's ability to render Java content. (These are believed to be consistent with the disclosed ability to control the operation of a browser by so-called event handlers.)

2. Yen's prior art figure 2 is discussed at page 1, paragraph [0007]:
FIG. 2 is a schematic view, wherein a prior art computer system 12 automatically arranges all window displays to be viewed simultaneously by executing the option "arrange all" from the application program menu. For example, in the application program Acrobat Reader (a processor for PostScript/PDF files), users open multiple window displays to display different files. Users view multiple window displays simultaneously by selecting the option "Tile" (both horizontal and vertical tile viewing mode are available).

Thus, the artisan would well appreciate that utilizing the so-called "Tile" capability permits the use of a controlling window to control the display or rendering of a controlled window.

3. With respect to Yen's figures 3 and 4, the following portions of pages 2 and 3 are reproduced here:

[0026] FIG. 3 is a schematic view of the present invention where a computer system 20 displays multiple window displays 30. The computer system 20 is used for executing an application program 22. The computer system 20 comprises a display screen 24 and input device 26, 28. The input device 26 is a keyboard and the input device

28 is a mouse. When the computer system 20 executes application program 22, the application program 22 generates a graphical user interface display 31 on display screen 24. The graphical user interface display 31 comprises a predetermined amount of window displays 30*a-i* (In the preferred embodiment of the invention, the predetermined amount of window displays are nine), and a plurality of function buttons 33. The function button 33 comprises a close function button 33*a*, a minimize function button 33*b*, a maximize function button 33*c*, and a restore function button 33*d* respectively. Each window display 30 comprises a display area 38 and a plurality of application program function buttons 32.

[0027] The application program 22 comprises a plurality of window components 34. Each window component 34 corresponds to a window display 30. Each window component 34 comprises an address parameter 36 for labeling the storage address of the displayed data in the display area 38 of the window display 30 corresponding to the window component 34, a display parameter 40 for labeling display status of the window display 30 corresponding to the window component 34, and an identity parameter 42 for labeling the display status of the window display 30 corresponding to the window component 34. When the display parameter 40 is set as visible, the application program 22 displays the window display 30 corresponding to the window component 34, and when the display parameter is set as invisible, the application program does not display the window display 30 corresponding to the window component 34.

[0029] The window displays 30 on the graphical user interface 31 are linked in an array based on the order of the identity parameters 42 of the window components 34. The window component 34 with a relatively lower identity parameter 42 subordinates to window component 34 with a relatively higher identity parameter 42. When a display parameter 40 of a window component 34 is set as invisible, the display parameter 40 of the next window component 34 in the array correspondingly and automatically set as invisible. In FIG. 3, window display 30*a-i* are linked in an array based on the order of the identity parameters 42 of the window components 34. The array

follows a top-down and left to right order. For example, the window display 30*b* is subordinate to the window display 30*a* and the window display 30*c* is subordinate to the window display 30*b* respectively.

[0030] FIG. 3 illustrates the window display 30*g-i* (indicated as a dotted line), wherein the display parameter 40 is set as invisible. As a result, the application program 22 displays the window display 30*a-f* and does not display the window display 30*g-l*.

[0031] FIG. 4*a-c* are schematic views illustrating steps wherein the application program generates window displays 30*a-c*. When a user first launches the application program 22 in a computer system 20, the application program 22 generates the graphical user interface display 31 on the display screen 24. Concurrently, the application program 22 displays the window display 30*a* on the graphical user interface display 31. At the same time, only the display parameter 40 of the window display 30*a* is set as visible, the remaining other display parameters 40 are set as invisible. As a result, the application program 22 only displays window display 30*a* in response to set up of the display parameter. On the window display 30*a*, there are also a close function button 33*a*, a minimize function button 33*b*, and a extend function button 33*c* displayed on the window display 30*a*.

[0032] When a user selects the extended function button 33*c* with a mouse 28, the application program 22 displays window display 30*b*, shifts the extend function button 33*c* the window display 30*b* and displays folding function button 33*d* on the window 30*b*. As shown in the FIG. 3, the window display 30*b* lies next to the window display 30*a* and the window display 30*b* is subordinate to the window display 30*a*.

[0033] When a user selects the extend function button 33*c*, the set up of the display parameter 40 of the window display 30*b* is alternated from invisible to visible. As a result, the application program 22 displays the window display 30*b*.

4. From these extensive teachings and the showings in figures 3 and 4 just mentioned, the artisan would generalize that each subwindow comprises a controlled window that in turn functions as a controlling window for purposes of still further yielding other subsequent to be opened controlled windows. Based on these teachings, we therefore agree with the Examiner's statements in the Responsive Argument portion of the Answer at page 12, "[t]herefore, Yen teaches that the controlling browser window (i.e. the first main window) controls functional aspects (such as the position and the visibility of) the controlled browser windows (i.e. the first sub-window and the second main window, etc.), as recited by the present claims." The Examiner's assessment at page 12 of the Answer of Yen is not contested by Appellants in the Reply Brief.

5. Hodgkinson's figures 1 through 3 show a prior art rendering of browser retrieved web pages, where figures 4 and 5 illustrate the technique of his contribution in the art. The Abstract also teaches:

The invention relates to the generation of user selected pages from an internet site and the delay in the reformatting of the same following a user selection of a new data event i.e. the selection of a new page which is to be displayed. In accordance with the invention, upon a user selection, reformatting of the page is delayed either for a predesignated time interval from the previous page reformatting or until all or predefined amount of the data for the new page has been received. This allows the processor to be controlled hence preventing delays and/or errors in navigational functions and also can reduce the generation of "flicker" on the on-screen display.

Additionally, the teachings at page 2, paragraphs [0015-0016] are noted:

[0015] In accordance with a further aspect of the invention there is provided a management system for the operation of an on screen page display which is generated from a user selected internet site, said system including a deferring system which prevents the web browser from reformatting pages during the reception of data each time the display page layout needs to change in response to a user selection characterized in that the web browser reformats at no more often than a predesignated time interval or when a predetermined amount of the data for the new page has been received.

[0016] In one embodiment when a new data event occurs that would normally cause a immediate page reformat, the browser takes note of the highest point in the page that would be affected and starts a time and no reformat occurs until a predesignated time elapses. Typically the reformat is delayed for the duration of a predesignate time period from the occurrence of a user selection. In addition or alternatively the reformat is delayed until all data for the entire page is received.

6. As reproduced in Finding of Fact 5, the last portion of the Abstract presents to the reader an advantage over the prior art approaches to rendering retrieved web pages by a local browser.

Additionally, paragraph [0027] from page 2 is also reproduced here:

[0027] This invention solves problems associated with these two reasons. Repeated reformatting, particularly if data is arriving in many small groups punctuated by short delays, can lead to a lot of flickering of the page display on screen, especially as the web browser function when provided as part of a BDR device, typically has insufficient Ram and/or processor power to implement a storage system where all the data for the page is stored in memory and then displayed. Thus, the occurrence of many reformats, typically for relatively trivial data changes can only be conventionally dealt with by the provision of relatively expensive high capacity memory.

With respect to the showings in Hodgkinson's figures 4 and 5, it further is stated in part in paragraph [0043] at page 3 of Hodgkinson that "[t]hus it will be appreciated that this single reformat at the time interval changes the appearance of the display to a significantly greater amount than is the case with each reformat in the conventional method."

Still further, paragraph [0044] states:

[0044] Reformats occur less often and encompass more changes using a the invention in comparison with the conventional method over a traditional model. Consequently, deferred reformatting can prove sufficiently beneficial that in embedded devices it becomes possible to select a lower power processor than would otherwise be required, reducing the cost of the hardware. The user of the device sees less flicker and smoother highlight-based navigation during page fetches, making the device more appealing to consumers.

7. With respect to the teachings of Netscape, we reproduce a portion of the Examiner's Responsive Arguments at pages 15 and 16 of the Answer:

Therefore, a teaching in which a controlling browser window controls the browser chrome element displayed by the GUI of an opened controlled browser window *at least once* teaches the recited claim limitations. Netscape teaches that when a user selects a link in a first browser window, a second browser window is opened (Screenshots 2-4). The second browser window is opened from the first browser window with a portion of the browser chrome, i.e. the back and forward buttons displayed in a manner that is different than the normal appearance of the buttons, i.e. the buttons are grayed out and deactivated in the sense that the user cannot select the back and forward buttons on the second opened browser window (Screenshots 2-4). Therefore, even assuming that the first browser window does not control any aspects of the second browser window from this point on, i.e. after first opening the second browser window, the first browser window controls the graphical or visual aspect of the second browser window at least once, namely when the first browser window

first opens the second browser window with graphical buttons grayed out. The applicant argues that the buttons are not deactivated, nor has the functional operations of these buttons been modified in any way, but rather that the buttons appear grayed out because there are no “forward” or “back” browsed pages to access. The examiner respectfully disagrees. When the second browser window is opened from the first browser window, it is displayed with the “forward” and “back” buttons grayed out; therefore, the visual appearance of the second browser window is displayed from the first browser window with the buttons deactivated, i.e. not selectable by the user. Since the second browser window was opened from the first browser window, the first browser window controlled the opening of the second browser window and since the second browser window was opened from the first browser window with a part of the browser chrome visually displayed in a grayed out manner, the first browser window controlled the visual aspect of the second browser window when it was opened.

PRINCIPLES OF LAW

"[T]he PTO gives claims their 'broadest reasonable interpretation.'" *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)). "Moreover, limitations are not to be read into the claims from the specification." *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citing *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989)). Our reviewing court has repeatedly warned against confining the claims to specific embodiments described in the specification. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1323 (Fed. Cir. 2005) (en banc).

One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986).

Section 103 forbids issuance of a patent when “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.”

KSR Int'l Co. v. Teleflex Inc., 127 S. Ct. 1727, 1734 (2007).

The Supreme Court emphasized “the need for caution in granting a patent based on the combination of elements found in the prior art,” and discussed circumstances in which a patent might be determined to be obvious. *KSR*, 127 S. Ct. at 1739 (citing *Graham v. John Deere Co.*, 383 U.S. 1, 12 (1966)). The Court reaffirmed principles based on its precedent that “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *Id.* The operative question in this “functional approach” is thus “whether the improvement is more than the predictable use of prior art elements according to their established functions.” *Id.* at 1740.

We must determine whether or not the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. *See KSR*, 127 S. Ct. at 1734. Obviousness determination is not the result of a rigid formula, and we will consider the facts of a case and the common sense of those skilled in the art. *Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1161 (Fed. Cir. 2007). That is, the test for obviousness is

rather what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 425 (CCPA 1981); *In re Young*, 927 F.2d 588, 591 (Fed. Cir. 1991).

ANAYLSIS

Finding of Fact 1 indicates that it was known in that art that users may not only customize various viewing bars on a browser-retrieved web page by adding or deleting buttons from them, but also the ability to configure the operation of a browser itself to selectively enable or disable a browser's ability to perform certain functions, such as, rendering or otherwise displaying or not Java content. Finding of Fact 2 reveals that it was also known in the art for a user to utilize a controlling window to exercise control by a user over a controlled window. The lengthy recitations in Finding of Fact 3 justify our and the Examiner's separate conclusions that the teachings of the various features in Yen itself illustrate that it was known in the art for a controlled window to become a controlling window for subsequently displayed windows.

Appellants' admitted prior art in Finding of Fact 1 as well as those set forth in the quoted material in Finding of Fact 3 from Yen justify the Examiner's conclusion that Yen teaches event handlers that cause responses upon user input. On the other hand, they also justify the conclusion that user input may be used in such a manner to control a browser window to produce a predetermined response, contrary to the Examiner's views as a part of the reasoning of the combinability of Yen and Hodgkinson, such as that

expressed at the bottom of page 4 of the Answer. Conventionally in the art, a user provides an input such as the actuation of a given button to produce a predetermined response (issue 1) of a desired display, for example.

On the other hand, we agree with the Examiner's views that Yen fails to teach the overriding capability required by the second issue before us such as to produce a different predetermined response. For example, Yen's paragraph [0026] at page 2 that we noted in Finding of Fact 3 indicates that there are a predetermined number of windowed displays that are arranged within a certain tile-like arrangement with no specific teaching in the following paragraphs other than figure 3 to indicate that a different response other than a predetermined response is contemplated within Yen. However, it is to be noted that the fact that this is taught to be predetermined would have indicated to the artisan that in some manner a determination was made as to the specific number and/or arrangement of separate window displays such as those in Yen's figure 3. As noted in Finding of Fact 4, the Reply Brief does not challenge the Examiner's final view with respect to Yen as expressed in the responsive arguments portion of the Answer.

The Examiner properly relies upon teaching value of Hodgkinson to modify the browser-based teachings of Yen with a corresponding browser-based modification in Hodgkinson. Finding of Fact 5 plainly indicates to the artisan that this reference teaches the ability of his "system" to modify a predetermined result such as the manner in which the retrieved web page and/or user selection of a given web site and the display of any of a plurality of pages from a given web site are essentially overridden, as claimed, by a new and different response. Contrary to the view expressed at page 16 of

the principal Brief, deferring the reformatting of a web page as it is being downloaded does disclose a broadly recited feature of receiving user input and overriding a predetermined response. The artisan would understand that the broadly recited predetermined response, and the teachings in Hodgkinson to change such a predetermined response by delaying according to a time interval or until all of a certain predefined amount of data has arrived from a given web site for display on a client machine by its browser, alters/overrides the normal expected, predetermined, conventional response (issue 2). Moreover, Finding of Fact 5 clearly teaches that it is the system within Hodgkinson's modified browser that performs this functionality. Appellants' corresponding remarks at pages 2 and 3 of the Reply Brief are equally unpersuasive.

We would tend to agree with Appellants' arguments in the paragraph bridging pages 16 and 17 of the principal Brief that the Examiner's proffered motivation to combine Yen and Hodgkinson (to provide a management system that keeps user from conducting harmful or unauthorized action on data, maintaining data integrity and security) is fundamentally flawed since the material relied upon does not support the Examiner's conclusion. On the other hand, there is ample evidence of the combinability within 35 U.S.C. § 103 and the above-noted case law to support the Examiner's conclusion of combinability as set forth in Finding of Fact 6. As the Examiner has properly noted at the bottom of page 14 of the Answer, Hodgkinson explicitly provides sufficient motivation for the combination of Hodgkinson's teachings to modify those of Yen.

Turning to the subject matter of dependent claim 3 relating to controlling a graphical aspect of a browser in such a manner as to control at least one browser chrome element displayed in an opened controlled browser window, the extensive teachings of the ability of graphical interfaces among Yen, Hodgkinson, and Netscape buttress what the artisan already knows from Appellants' discussion of known browsers as reflected from Finding of Fact 1. The Examiner's reasoning with respect to Netscape in Finding of Fact 7 is consistent with the Examiner's basic position with respect to Yen, that essentially an open window becomes a controlling window for a subsequently opened controlled window. Netscape's screenshot 4 clearly demonstrate that the so-called "back" and "forward" buttons are deactivated functionally by the user's actuation of the functionality available and displayed to the user in the first opened window. Appellants' positions at pages 4 and 5 of the Reply Brief are unpersuasive even though it is noted and recognized that these buttons are "grayed out" since there may be no forward or backward browser pages to access. The fact that this may be the case for a given web site or access does not detract from the fact that the graphical aspect in the chrome element has been altered by the actuation of the opened window functioning as a controlling window. The generalized teachings still selectively apply to plural browser pages. Screenshot 5 also illustrates that certain functional buttons in the bar at the top of the page have been eliminated from a user's ability to utilize them much like Appellants' own disclosed approach in figure 3, which removes certain chrome elements.

CONCLUSIONS OF LAW

Appellants have not shown that the Examiner erred that the feature of representative independent claim 1 on appeal of receiving user input in a controlled browser window produces a predetermined response and the separate feature of overriding this predetermined response with a different response. Thus, no error has been persuasively shown to exist with respect to issues 1 and 2. Correspondingly, the feature of controlling a graphical aspect of a browser chrome element in representative dependent claim 3, in issue 3, was not shown by Appellants to be an erroneous conclusion of the Examiner.

DECISION

The Examiner's two-stated rejections of all claims on appeal under 35 U.S.C. § 103 are affirmed. All claims on appeal are unpatentable.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). See 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

pgc

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